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Attorneys for Creditor
Northern California Mortgage Fund XII, LLC

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In re	)	Bk. No. 2:18-bk-16304-SK
	)	Chapter 11
MARIA A. GONZALEZ,	)	RESPONSE TO TRUSTEE'S
	)	MOTION TO OPERATE
	)	PROPERTIES
)	
Debtor.	)	Date: February 20, 2019
	)	Time: 9:00 a.m.
	)	Court: US Bankruptcy Court
	)	255 E. Temple St.
	)	Courtroom 1575
	)	Los Angeles CA 90012
	)	(Judge Klein)

Secured creditor Northern California Mortgage Fund XII, LLC ("Norcal") hereby responds to the Trustee's Motion to Operate Properties, etc. at Docket 59 (the "Motion") herein as follows:

1. Creditor's Position in This Case

Creditor holds a first note against a duplex owned by the Debtor at 1172-1174 North Mentor Avenue, Pasadena, CA 91104, referred to in the Motion as the "Mentor Avenue Property."

On March 10, 2017, the Debtor took a secured real property loan from Norcal based on her promissory note (the "Note"), in the amount of \$ 300,000 in a loan transaction made and arranged by and through a licensed mortgage and CFL lender. The Note was secured by a Deed

1 of Trust and Assignment of Rents (hereafter the “Deed of Trust”), which Deed of Trust was
2 recorded against the Mentor Avenue Property on March 10, 2017. The Note and Deed of Trust
3 are part of Norcal’s Proof of Claim in this case for \$332,597 (Claim No. 5). There have been no
4 payments on the Note since May 2018. The Motion states the Mentor Property was occupied by
5 Debtor’s mother until her death, post petition, and the Debtor’s sister, apparently also an
6 occupant of that unit, remains in residence. There is a second unit occupied by a tenant, paying
7 \$700.00 per month to either the Debtor or the sister (the Motion states that the sister “collects”
8 the rent, but is unclear to whom the rent is payable, the sister or the Debtor.

9 Debtor scheduled the value of the Property at \$700,000 and assuming no intervening
10 circumstances (casualty, fraudulent leases etc.) since it made the loan, Norcal does not dispute
11 that it is worth at least that much. Since there appears to be a substantial equity cushion, Norcal
12 does not have a present concern about adequate protection.

13 **2. Response to the Motion.**

14 In general, Norcal does not object to the relief. Norcal has an interest in the modest
15 amount of cash collateral generated by the Mentor Avenue Property so its consent or order of
16 the Court as to its use is required and it should be heard on the matter. (11 U.S.C. § 363(a) and
17 § 363(c)). Norcal has the following reservations as to the relief requested, which it has raised
18 with the Trustee informally prior to this response.

19 (a) Norcal’s interest in this case is to see its now matured loan repaid. Therefore,
20 the Court should consider either a time limitation on the relief or at least a control date to revisit
21 the arrangement between the Debtor and her sister.

22 (b) Norcal requests verification of the leasing arrangements, including identity and
23 contact information of the sister and the tenant; and that there are no hidden leases, especially
24 pre-loan, which affect the Mentor Avenue Property.

25 (c) Norcal requests that it be provided with verification of the use of the cash
26 collateral and the maintenance, especially of insurance, or that it can do so independently
27 without it being treated as a violation of the stay.

28 (d) In the event different circumstances about the leasing arrangement or the status

1 of the Mentor Avenue Property arise, Norcal wants to be clear that its consent on this motion is
2 not a waiver of any rights under the loan documents or otherwise.

3 The Trustee's counsel has assured Norcal that he can provide the information requested
4 and has been cooperative, so the concern is that these reservations be accounted for in the
5 hearing and determination of the Motion.

6 Dated: February 5, 2019

LAW OFFICES OF MARK J. ROMEO

7 By/S/ Mark J. Romeo

8 MARK J. ROMEO

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document entitled (*specify*): Response to Motion to Operate

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 02/05/2019, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 02/05/2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 02/05/2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Sandra R. Klein
U.S. Bankruptcy Court
255 E. Temple Street Suite 940
Los Angeles CA 90012 (Attn Mail Room Clerk Judge's Copies)

☒ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

02/05/2019 Mark J. Romeo
Date *Printed Name*

Signature 

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

PROOF OF SERVICE ATTACHMENT

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING(NEF):

Name	Address	Capacity
Peter Mastan	peter.mastan@dinsmore.com	Ch. 7 Trustee
Ryan Stubbe	ryan@jlglawyers.com	Atty for Debtor
Dare Law	dare.law@usdoj.gov	US Trustee
Coby Halavais	coby@halavaislaw.com	Atty for Creditor
Valerie Smith	claims@recoverygroup.com	Interested Party
US Trustee (LA)	ustregion16.la.ecf@usdoj.gov	US Trustee
Christopher Celentino	christopher.celentino@dinsmore.com	Atty for Chapter 7 Trustee
Mikel Bostrow	mikel.bistrow@dinsmore.com	Atty for Chapter 7 Trustee

2. SERVED BY UNITED STATES MAIL:

<u>Name</u>	<u>Capacity(s)</u>
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Maria A. Gonzalez

3163 Drew Street
Los Angeles, CA 90065

Debtor

Chapter 7 Trustee

Peter J. Mastan
550 S. Hope Street, Suite 1765
Los Angeles CA 90071-2627

Trustee

CA Franchise Tax Board
Special Procedures Bankruptcy Unit
P.O. Box 2952
Sacramento, CA 95812

IRS
P.O. Box 7346
Philadelphia, PA 19101

LA County Tax Collector
Bankruptcy Unit
POB 54110
Los Angeles CA 90012-0110

Los Angeles City Clerk
POB 53200
Los Angeles CA 90053-0200

FCI Lender Services
POB 27370
Anaheim CA 92809-0112

LMF 2 LP
11696 Sorrento Valley Road # 201
San Diego CA 92121-1024

C&H Trust Deed Services
1 Orchard Rd.
Suite 110
Lake Forest CA 92630-8315

Citibank/Home Depot
Centralized Bankruptcy
POB 790034
St Louis MO 63179-0034

Navy Federal Credit Union
Attn Bankruptcy
POB 3000
Marrifield VA 22119-3000

Navy Federal Credit Union
Attn Bankruptcy
POB 3500
Marrifield VA 22119-3500

Pentagon Fed. Cr. Union
Attn Bankruptcy
2930 Eisenhower Ave
Alexandria VA 22314-4557

Synchrony Bank
Attn Bankruptcy
POB 956060
Orlando FL 32896-5060

Judge: [if checked] [x]

Honorable Sandra R. Klein
U.S. Bankruptcy Court
255 E. Temple Street
Suite 1352
Los Angeles, CA 90012